

Honorable Richard A. Jones
Honorable J. Richard Creatura

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

EL PAPEL, LLC; BERMAN 2, LLC;
and KARVELL LI, an individual,

Plaintiffs,

v.

JAY R. INSLEE, in his official capacity as
Governor of the State of Washington;
JENNY A. DURKAN, in her official
capacity as the Mayor of the City of Seattle; and
THE CITY OF SEATTLE, a municipal
Corporation,

Defendants.

No. 2:20-cv-01323-RAJ-JRC

**BRIEF OF *AMICI CURIAE* CITIES AND
COUNTIES**

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SUMMARY OF ARGUMENT

At a moment of unprecedented crisis, state and local governments have been indispensable to the public health and economic response to the COVID-19 pandemic. Standing at a crucial cornerstone of health and welfare, and integral to that overall response, is housing security. Across America, state and local governments—through a variety of means, including legislative actions, executive orders, and judicial rules—have restricted or barred eviction proceedings during some or all of the current pandemic. Because of the critical role that eviction restrictions and other housing security measures will continue to play in our collective and long-term response to COVID-19, the City of Chicago, along with the Cities of Boston, Cambridge, Dayton, Gary, Los Angeles, Oakland, Olympia, Portland, Santa Cruz, Santa Monica, St. Paul, Somerville, Tucson, and West Hollywood as well as Cook County, and Santa Clara County (collectively, “*Amici* Cities and Counties”), submit this brief as *amicus curiae* in opposition to the motion for preliminary injunction and in support of Defendants the City of Seattle, Governor Jay R. Inslee and Mayor Jenny A. Durkan.

Amici Cities and Counties address arguments in this case that have broad ranging implications for state and local governments across the country. In summation, all of Plaintiffs’ arguments challenging Seattle, Wash., Resolution 31938 (Mar. 16, 2020), Seattle, Wash., Ordinance 126075 (May 6, 2020), and Seattle, Wash., Ordinance 126081 (May 15, 2020) (together, the “eviction moratorium”) should be rejected by this Court. First, the eviction moratorium falls squarely within the City’s police power to promote public health, safety, and welfare during a pandemic and implicates no fundamental rights. The moratorium has done so by enabling residents to shelter in place and socially distance. Additionally, by maintaining the economic welfare of tenants, the moratorium protects individuals and neighborhoods against the dangers and risks associated with evictions, including health and safety harms. These housing stability safeguards are

1 crucial as a matter of both the public health and economic response to the current crisis.

2 ARGUMENT

3 The City of Seattle’s eviction moratorium falls well within the expansive police power
4 authority granted to Washington cities to uphold public health and safety. Plaintiffs improperly
5 import a least restrictive means test into the police power context and mischaracterize the
6 governments’ interests as limited to preventing homelessness. Pls.’s Mot. for Prelim. Inj. 13-17,
7 ECF No. 16 (Sept. 21, 2020). This framing completely fails to address the evidence that the
8 moratorium rationally protects the health of all Seattle residents, including but not limited to
9 individuals at high risk of becoming homeless. The public health evidence overwhelmingly
10 demonstrates that access to stable housing is a crucial component of containing the novel
11 coronavirus (“COVID-19”). Eviction moratoriums have a substantial relation to public health when
12 they ensure that all tenants maintain this access.

13 In the seminal case of *Jacobson v. Massachusetts*, the U.S. Supreme Court upheld
14 Massachusetts’s authority to enforce its compulsory vaccination law. 197 U.S. 11 (1905). The Court
15 concluded that public health measures are constitutional so long as they demonstrate a “real or
16 substantial relation” to the protection of public health. *Id.* at 30-31; *accord Golden Gate Rest. Ass’n*
17 *v. City & Cty. of San Francisco*, 546 F.3d 639, 648 (9th Cir. 2008) (recognizing tradition of local
18 and state responsibility for public health and upholding local healthcare services ordinance). Here,
19 the eviction moratorium undoubtedly maintains a real and substantial relation to protecting the
20 public health in the face of the COVID-19 pandemic by increasing housing stability and allowing
21 Seattle to implement social distancing and quarantining measures.

1 The eviction moratorium, moreover, does not discriminate against members of a protected
 2 class nor implicate a fundamental right.¹ Because a limitation on the use of property does not
 3 implicate a fundamental right, it need only be rational. *See, e.g., Schnuck v. City of Santa Monica*,
 4 935 F.2d 171, 174 (9th Cir. 1991) (“Rent controls violate due process only if ‘arbitrary,
 5 discriminatory, or demonstrably irrelevant’ to a legitimate governmental purpose”) (quoting *Pennell*
 6 *v. San Jose*, 485 U.S. 1, 11 (1988)). As described in more detail below, Seattle’s eviction
 7 moratorium is rationally related to the City’s intertwined interests in protecting the health of its
 8 residents and promoting their economic security.

8 **A. The Eviction Moratorium Promotes Public Health and Safety by Ensuring**
 9 **Residents Have Stable Housing in Which to Social Distance and Shelter-in-Place**

9 Federal and Washington law require public health regulations to have a rational connection
 10 with the promotion of public health and safety. *See Kelley v. Johnson*, 425 U.S. 238, 247 (1976);
 11 *State v. Dexter*, 202 P.2d 906, 907 (Wash. 1949) (“The police power of a state is declared . . . to
 12 include all those regulations designed to promote the public convenience, the general welfare, the
 13 general prosperity, and extends to all great public needs, as well as regulations designed to promote
 14 the public health, the public morals, or the public safety”) (citations omitted).² The eviction

15 ¹ Unless public health legislation impermissibly interferes with the “exercise of a fundamental right” or disadvantages a
 16 “suspect class,” courts under the Equal Protection and Due Process Clauses use rational basis review. *See, e.g.,*
 17 *Massachusetts Bd. of Ret. v. Murgia*, 427 U.S. 307, 312 (1976). Both federal and Washington courts have found that
 18 landlords are not a protected class. *Sylvia Landfield Trust v. City of Los Angeles*, 729 F.3d 1189, 1191 (9th Cir. 2013)
 19 (“We apply rational basis review because landlords are not a protected class...”); *San Francisco Apartment Ass’n v. City*
 20 *& Cnty. of San Francisco*, 881 F.3d 1169, 1179 (9th Cir. 2018) (same); *accord Chong Yim v. City of Seattle*, 451 P.3d
 21 694, 702 (Wash. 2019) (“Laws regulating the use of property are therefore not subject to heightened scrutiny”).

22 ² Federal and state courts have upheld public health measures on this basis in the context of COVID-19, including
 eviction moratoriums. *S. Bay United Pentecostal Church v. Newsom*, 590 U.S. ___, 140 S. Ct. 1613, 1613-14 (2020)
 (Roberts, C.J., concurring); *Friends of Danny Devito v. Wolf*, 227 A.3d 872 (Pa. 2020) (holding that the Pennsylvania
 Governor could close all “non-life-sustaining” businesses by executive order); *Baptiste v. Kennealy*, No. 1:20-cv-11335-
 MLW, 2020 U.S. Dist. LEXIS 176264 (D. Mass. Sept. 25, 2020) (upholding eviction moratorium); *HAPCO v. City of*
Philadelphia, No. 20-3300, 2020 U.S. Dist. LEXIS 156327 (E.D. Pa. Aug. 27, 2020 (same)); *Matorin v. Massachusetts*,
 Civil Action No. 20-CV-01334 (Mass. Sup. Ct. Aug. 26, 2020) (same); *Auracle Homes, LLC v. Lamont*, No. 3:20-cv-
 0829 (VAB), 2020 U.S. Dist. LEXIS 141500 (D. Conn. Aug. 7, 2020) (same); *San Francisco Apt. Ass’n v. City & Cty. of*
San Francisco, No. CPF-20-517136 (Cal. Super. Ct., Cty. of San Francisco Aug. 3, 2020), appeal abandoned, No.
 A160924 (Cal. Ct. App. Oct. 1, 2020) (same); *JL Props. Grp. B, LLC v. Pritzker*, No. 20-CH-601 (12th Cir. Ct., Will
 Cty., Ill. July 31, 2020) (same); *Gregory Real Estate & Mgmt. v. Keegan*, No. CV2020-007629 (Super. Ct. of Ariz.,

1 moratorium meets this standard by promoting public health in three distinct and critical ways: (1)
 2 ensuring efficacy of stay-at-home and social distancing guidance; (2) preventing homelessness; and
 3 (3) limiting housing overcrowding.

4 **1. Stay-at-Home and Social Distancing Guidance**

5 Eviction moratoriums promote public health and safety by ensuring that stay-at-home orders
 6 can reduce the spread of COVID-19. Stay-at-home orders work to stop the spread of COVID-19 by
 7 limiting contagious contact outside of homes and thus lowering the number of new people infected
 8 by each case.³ States that implemented stay-at-home orders saw a 48.6% reduction in new cases after
 9 three weeks and a 59.8% reduction in weekly fatalities.⁴ States that imposed stay-at-home orders
 10 also saw a reduction in the average number of new people infected by a person sick with COVID-19
 11 to less than one, a vital benchmark for successful suppression of the virus.⁵ The reduction in spread
 12 happened because residents were able to stay at home, away from public transit and other public
 13 spaces.⁶

14 Eviction moratoriums play a crucial role in ensuring that stay-at-home orders are effective by
 15 preventing tenants from becoming homeless or relocating to overcrowded homes.⁷ The economic
 16 downturn associated with the COVID-19 pandemic has increased the number of households at risk

17 Maricopa Cty. July 22, 2020) (same); *Elmsford Apt. Assocs., LLC et al. v. Cuomo*, No. 20-cv-04062, 2020 WL 3498456
 18 (S.D.N.Y. June 29, 2020) (same).

19 ³ James H. Fowler et al., *The Effect of Stay-at-Home Orders on COVID-19 Cases and Fatalities in the United States*,
 20 medRxiv, 1, 10-11 (May 12, 2020), <https://www.medrxiv.org/content/10.1101/2020.04.13.20063628v3.full.pdf>.

21 ⁴ *Id.* at 8.

⁵ Juliette T. Unwin et al., *Report 23: State-level Tracking of COVID-19 in the United States*, Imperial College London, 9
 (May 28, 2020), <https://www.imperial.ac.uk/media/imperial-college/medicine/mrc-gida/2020-05-28-COVID19-Report-23-version2.pdf>.

⁶ *Id.* at 4.

⁷ See Declaration of Kathy Lofy, MD ¶ 19, ECF No. 31 (October 4, 2020), (State Health Officer and Chief Science
 Officer at the Washington State Department of Health stating that evicted tenants would move in with family or into
 other congregate settings, increasing in-person contacts and making COVID-19 transmission likelier.)

1 of eviction.⁸ Even under normal circumstances, evictions cause substantial increases in both
 2 homelessness and overcrowding, as people lose their homes and either have no place to go or find
 3 shelter wherever they can.⁹ With public and nonprofit housing assistance and other social services
 4 strained due to tight budgets and rising need, experts predict that if the eviction moratorium is lifted,
 5 increases in homelessness and overcrowding will be more severe than normal.¹⁰ Homelessness and
 6 overcrowding will in turn increase the risk of both individual infection and uncontrolled outbreaks
 because individuals cannot effectively socially distance.

7 **2. Homelessness**

8 Homelessness increases the risk of infection and death caused by COVID-19. The Centers
 9 for Disease Control and Prevention (“CDC”) noted that observing their recommended precautions to
 10 avoid contracting COVID-19, such as avoiding public spaces and frequent handwashing, may be
 11 impossible for people experiencing homelessness.¹¹ Homelessness can create additional health
 12 problems and accelerate aging for those who experience it chronically, which places this generally
 13 older population at particularly high risk for severe illness and death from COVID-19.¹² In other
 14 states, as individuals experiencing homelessness crowd into shelters without resources to fully
 implement safe practices, these shelters have become hotspots for community spread, threatening the

15
 16 ⁸ Declaration of Jim Baumgart ¶¶ 7, 12, 18, ECF No. 29 (Senior Policy Advisor for the Governor describing the impact
 the economic downturn has had on tenants’ ability to pay rent).

17 ⁹ Kimberly Skobba & Edward G. Goetz, *Mobility Decisions of Very Low-Income Households*, 15.2 Cityscape: J. Pol’y
 Dev. & Res. 155, 158 (2013).

18 ¹⁰ Jen Kirby, *America’s Looming Housing Catastrophe, Explained*, Vox (July 8, 2020),
<https://www.vox.com/21301823/rent-coronavirus-covid-19-housing-eviction-crisis>.

19 ¹¹ *People Experiencing Homelessness*, Ctrs. for Disease Control & Prevention (June 12, 2020),
<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/homelessness.html>.

20 ¹² Dennis P. Culhane et al., *Estimated Emergency and Observational/Quarantine Capacity Need for the US Homeless
 Population Related to COVID-19 Exposure by County; Projected Hospitalizations, Intensive Care Units and Mortality*,
 Nat’l All. to End Homelessness, 2-5 (Mar. 27, 2020), [https://endhomelessness.org/wp-content/uploads/2020/03/COVID-
 paper_clean-636pm.pdf](https://endhomelessness.org/wp-content/uploads/2020/03/COVID-paper_clean-636pm.pdf).

broader public health.¹³ While shelters in Washington have implemented a range of COVID-19 safety protocols to reduce spread, infection control remains very difficult and several Seattle homeless shelters have experienced spikes in COVID-19 outbreaks since August.¹⁴

3. Overcrowding

Overcrowding or “doubling up” of households in non-shelter housing presents similar risks. Multiple studies have found that neighborhoods with a higher proportion of overcrowded homes had higher rates of infection, with greater risks especially for the elderly living in close quarters with younger people.¹⁵ These studies reinforce the data and other evidence submitted by the Defendants, which demonstrates that communities with higher percentages of overcrowding generally have had higher case infection rates.¹⁶ Household members cannot effectively socially distance when they share common areas such as restrooms and may even share sleeping quarters. Essential workers in sectors with exposure to the general public, like food service and healthcare, also face disproportionate overcrowding, heightening the risk of overcrowding-related COVID-19 exposure to themselves, their households, and the community.¹⁷

¹³ See, e.g., Vianna Davila, *Coronavirus Hot Spots in Texas Homeless Shelters Highlight Challenges Unsheltered Residents Face Social Distancing, Staying Clean*, Tex. Trib. (May 24, 2020), <https://www.texastribune.org/2020/05/24/texas-homeless-shelters-coronavirus-houston-austin-dallas/>.

¹⁴ Scott Greenstone & Sydney Brownstone, *COVID-19 Spike in Seattle Shelter Amplifies the Many Uncertainties Facing King County’s Homeless in the Fall*, Seattle Times (Aug. 25, 2020), <https://www.seattletimes.com/seattle-news/homeless/covid-19-spike-in-seattle-shelter-amplifies-the-many-uncertainties-facing-king-countys-homeless-in-the-fall/>; see also Emily Mosites et al., *Assessment of SARS-CoV-2 Infection Prevalence in Homeless Shelters — Four U.S. Cities, March 27–April 15, 2020*, 69 Mortality & Morbidity Wkly. Rep. 521 (May 1, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6917e1.htm> (documenting outbreaks in three shelters in Seattle that infected 17% of residents and staff members).

¹⁵ *COVID-19 Cases in New York City, a Neighborhood-Level Analysis*, NYU Furman Ctr. (Apr. 10, 2020), <https://furmancenter.org/thestoop/entry/covid-19-cases-in-new-york-city-a-neighborhood-level-analysis>; see also Lofy Dec., ¶¶ 18-19); Jackie Botts & Lo Bénichou, *The Neighborhoods Where COVID Collides with Overcrowded Homes*, CalMatters (June 12, 2020), <https://calmatters.org/projects/california-coronavirus-overcrowded-neighborhoods-homes/>.

¹⁶ See Lofy Dec. ¶ 19.

¹⁷ Marisol Cuellar Mejia & Paulette Cha, *Overcrowded Housing and COVID-19 Risk Among Essential Workers*, Pub. Pol’y Inst. of Cal. (May 12, 2020), <https://www.pplic.org/blog/overcrowded-housing-and-covid-19-risk-among-essential-workers/>.

As cases continue to rise nationally, experts also anticipate a “third wave” of community spread, even in states and localities that have significantly reduced the number of active COVID-19 cases.¹⁸ Since the beginning of October, case rates in King County have begun to spike for the third time, and the rate of hospitalizations in Washington has begun to rise again.¹⁹ Low existing immunity in the general population and the contagiousness of the virus both make a resurgence more likely.²⁰ Even after rigorous shelter-in-place orders, New York City and the State of Wisconsin have re-imposed public health orders in response to community spread.²¹ Local governments as service providers also have shifted resources to treat and prevent COVID-19 and influenza cases in the fall and winter.²² Absent the maintenance of the eviction moratorium, a worsening public health crisis could accelerate as households are evicted just as COVID-19 cases begin rising again.²³ At increased risk of contracting and spreading COVID-19 due to homelessness or overcrowded housing, those

¹⁸ David Wallace-Wells, *The Third Wave of the Pandemic Is Here*, N.Y. Intelligencer (Oct. 12, 2020), <https://nymag.com/intelligencer/2020/10/the-third-wave-of-covid-19-is-here.html>.

¹⁹ *Daily COVID-19 Outbreak Summary*, King Cnty. Dep’t of Pub. Health (Oct. 15, 2020), <https://www.kingcounty.gov/depts/health/covid-19/data/daily-summary.aspx>; Ryan Blethen, *COVID-19 Cases Could be Creeping Up Across Washington*, Seattle Times (Sept. 30, 2020), <https://www.seattletimes.com/seattle-news/health/covid-19-cases-could-be-creeping-up-across-washington/>.

²⁰ Tyler S. Brown & Rochelle P. Walensky, *Serosurveillance and the COVID-19 Epidemic in the US: Undetected, Uncertain, and Out of Control*, JAMA Network (July 21, 2020), <https://jamanetwork.com/journals/jama/fullarticle/2768835>.

²¹ Gregory Barber, *New York Is Trying Targeted Lockdowns. Will It Stop a Second Wave?*, WIRED (Oct. 12, 2020), <https://www.wired.com/story/new-york-is-trying-targeted-lockdowns-will-it-stop-a-second-wave/>; Alison Durkee, *Wisconsin Judge Upholds Mask Mandate As Coronavirus Cases Surge*, Forbes (Oct. 12, 2020) <https://www.forbes.com/sites/alisdurkee/2020/10/12/wisconsin-judge-upholds-mask-mandate-as-coronavirus-cases-surge/> - 251433fb3821.

²² See, e.g., *With COVID-19 Increasing Risk, Santa Clara County Offers Free Flu Shots*, CBS SF Bay Area (Sept. 17, 2020) (expanding vaccination efforts), <https://sanfrancisco.cbslocal.com/2020/09/17/santa-clara-county-offering-free-flu-shots-as-covid-19-increases-risk/>; Cyrus Moulton, *Worcester Health Officials Work to Ward Off COVID, Flu Season ‘Twindemic’*, Telegram (Oct. 10, 2020), <https://www.telegram.com/news/20201010/worcester-health-officials-work-to-ward-off-covid-flu-season-twindemic>.

²³ See Emily A. Benfer et al., *Public Health Amici Curiae Brief in Support of the Centers for Disease Control and Prevention Eviction Moratorium*, at 27-28 (Oct. 12, 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3708504 (lifting state eviction moratoriums associated with 2.1 times higher mortality and 1.5 times higher incidence of COVID-19).

1 evicted from their residences could spark new outbreaks and undermine Washington’s continuing
 2 efforts to address the pandemic.²⁴

3 **B. The Eviction Moratorium Promotes Public Health and Safety by Maintaining 4 Economic Welfare**

4 The eviction moratorium is also essential to maintaining the economic security of Seattle
 5 residents. The severe harms caused by the nearly unparalleled national economic crisis instigated by
 6 the pandemic imperil the public welfare of our communities. Even if the eviction moratorium is
 7 considered solely through the lens of economic regulation (rather than as a public health measure,
 8 which it is as well), state and local governments are still granted broad deference in review. *See, e.g.,*
 9 *Exxon Corp. v. Governor of Md.*, 437 U.S. 117, 125-26 (1978); *Yim v. City of Seattle*, 451 P.3d 694,
 10 702 (Wash. 2019) (“We have returned to the original constitutional proposition that courts do not
 11 substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to
 12 pass laws.”) (quotations omitted). Under the Washington Constitution, when cities exercise their
 13 police power to promote public welfare, “ordinances are presumed valid, and this presumption is
 14 overcome only by a clear showing of arbitrariness and irrationality.” *See Yim*, 451 P.3d at 702, 704.
 15 Given the scale of the economic crisis faced by Seattle and the rest of the country, and the
 16 devastating consequences of eviction on economic stability and public health and safety, a temporary
 17 eviction moratorium against cases that do not involve an imminent threat to health and safety during
 18 the emergency and a limited moratorium on nonpayment cases after the emergency lifts is an
 19 appropriate exercise of the City’s authority.

20 ²⁴ *See* Lofy Dec., ¶34 (“While mitigation efforts in Washington State helped reduce the spread of COVID-19...cases
 21 have recently begun to rebound, likely due at least in part to the cooler fall weather leading people to spend more time
 indoors.”)

1 Our residents are struggling economically. Between February and April of this year, the
 2 national unemployment rate increased from a low of 3.5% to a peak of 14.7%.²⁵ Accounting for
 3 misclassified workers and workers who have left the workforce, the effective unemployment rate
 4 was likely still 11% in September, despite extraordinary measures taken by the federal, state, and
 5 local governments.²⁶ In March, Seattle experienced the largest year-to-year jump in unemployment
 6 rate of any city in the US,²⁷ and ultimately peaked in April with an unemployment rate of 16.1%.²⁸
 7 Although the Seattle area's unemployment rate has decreased to 7.2% in September, it remains
 8 nearly double the unemployment rate in September 2019.²⁹

9 Other indicators, such as rising food insecurity, further illustrate the economic peril that so
 10 many families across the country are facing right now. Nationally, enrollment in the Supplemental
 11 Nutrition Assistance Program ("SNAP" or "food stamps") has increased by more than six million
 12 Americans since the beginning of the crisis,³⁰ while King County saw an 18% increase in enrollment
 13 the State's Basic Food program between January and June.³¹ Food insecurity was the second most

13 ²⁵ *Civilian Unemployment Rate*, U.S. Bureau of Lab. Stat., <https://www.bls.gov/charts/employment-situation/civilian-unemployment-rate.htm> (last visited Oct. 13, 2020).

14 ²⁶ Scott Horsley, *Fed's Jerome Powell Calls for More Economic Aid, Warning 'Weakness Feeds on Weakness'*, NPR (Oct. 6, 2020), <https://www.npr.org/2020/10/06/920770414/feds-jerome-powell-calls-for-more-economic-aid-warning-weakness-feeds-on-weakness>; Rakesh Kochhar, *Unemployment Rose Higher in Three Months of COVID-19 Than It Did in Two Years of the Great Recession*, Pew Res. Ctr. (June 11, 2020) (documenting peak of unemployment during Great Recession at 10.6%).

16 ²⁷ Callie Craighead, *Report: Seattle has Biggest Year-to-Year Increase in Unemployment Rate of Any US City*, Seattle P-I (Apr. 30, 2020), <https://www.seattlepi.com/coronavirus/article/seattle-biggest-increase-unemployment-rate-in-us-15234851.php>.

17 ²⁸ *Economy at a Glance: Seattle-Bellevue-Everett, WA*, U.S. Bureau of Lab. Stat. (Oct. 15, 2020), https://www.bls.gov/eag/eag.wa_seattle_md.htm.

18 ²⁹ *Monthly Employment Report*, Emp. Sec. Dep't (Sept. 2020), <https://esdorchardstorage.blob.core.windows.net/esdwa/Default/ESDWAGOV/labor-market-info/Libraries/Economic-reports/MER/MER%202020/MER-2020-09.pdf>.

19 ³⁰ Dottie Rosenbaum, *Boost SNAP to Capitalize on Program's Effectiveness and Ability to Respond to Need*, Ctr. on Budget & Pol'y Priorities (July 18, 2020), <https://cbpp.org/research/food-assistance/boost-snap-to-capitalize-on-programs-effectiveness-and-ability-to-respond>.

21 ³¹ *Increases in Food Needs in King County, WA Spring-Summer 2020*, King Cnty. Dep't of Pub. Health (Aug. 2020), <https://www.kingcounty.gov/depts/health/covid-19/data/impacts/~media/depts/health/communicable-diseases/documents/C19/food-insecurity-brief-report-august-2020.ashx>.

1 common reason King County residents sought social services during the spring, and it persists as a
 2 problem.³² Residents in our communities have lost their healthcare coverage, which places them at
 3 greater risk of further economic devastation should they fall ill.³³ Uninsured people may also face
 4 barriers in seeking medical care, hampering the broader public health response to the COVID-19
 5 pandemic.³⁴

6 Finally, due to surging unemployment and other economic factors, 1 in 6 renters nationally
 7 reported that they were unable to pay their full September rent on time.³⁵ In September, less than
 8 60% of Seattle renters were highly confident that they would be able to pay rent in October.³⁶ One
 9 study estimates that up to 40 million renters nationwide could be at risk of eviction in the coming
 10 months³⁷—up from estimates of around 20 million at risk in June.³⁸ These issues compound in a
 11 vicious cycle: for instance, while unemployment can cause difficulty in paying rent, housing
 12 insecurity also leads to job loss among low-income workers.³⁹ If left unaddressed, these intersecting
 13 crises will only accelerate the economic downturn.

13 ³² *Id.*

14 ³³ Stan Dorn, *The COVID-19 Pandemic and Resulting Economic Crash Have Caused the Greatest Health Insurance Losses in American History*, Families USA (July 17, 2020), <https://www.familiesusa.org/resources/the-covid-19-pandemic-and-resulting-economic-crash-have-caused-the-greatest-health-insurance-losses-in-american-history/>.

15 ³⁴ Jennifer Tolbert, *What Issues Will Uninsured People Face with Testing and Treatment for COVID-19?*, Kaiser Fam. Fdn. (Mar. 16, 2020), <https://www.kff.org/coronavirus-covid-19/fact-sheet/what-issues-will-uninsured-people-face-with-testing-and-treatment-for-covid-19/>.

16 ³⁵ Annie Nova, *Millions of Americans May Not be Able to Pay Their Rent in October*, CNBC (October 2, 2020), <https://www.cnbc.com/2020/10/02/millions-of-americans-may-not-be-able-to-pay-rent-in-october.html>.

17 ³⁶ *Week 15 Household Pulse Survey*, U.S. Census (Oct. 7, 2020) (examine Table 2b and the “Seattle Metro Area” tab) <https://www.census.gov/data/tables/2020/demo/hhp/hhp15.html>; see also Baumgart, Decl. ¶8 (“By one estimate, up to 789,000 Washingtonians are at risk of eviction by the end of 2020.”)

18 ³⁷ Emily Benfer et al., *The Covid-19 Eviction Crisis: An Estimated 30-40 Million People in America Are at Risk*, Nat’l Low Income Hous. Coal. (Aug. 7, 2020), https://nlihc.org/sites/default/files/The_Eviction_Crisis_080720.pdf.

19 ³⁸ Katherine Lucas McKay et. al., *20 Million Renters Are at Risk of Eviction; Policymakers Must Act Now to Mitigate Widespread Hardship*, Aspen Inst. (June 19, 2020), <https://www.aspeninstitute.org/blog-posts/20-million-renters-are-at-risk-of-eviction/>.

20 ³⁹ Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity Among the Working Poor*, 63 Soc. Problems 54, 59 (2016) (finding that forced moves, including evictions, increase the likelihood of job loss among low-income workers by 15 to 22 percentage points.)

1 *Amici* have particularly strong economic interests in keeping people housed during this crisis.
 2 Stable housing is associated with maintaining stable employment, which is especially important
 3 during a time when so many people are already at risk of losing their jobs.⁴⁰ Job loss and evictions
 4 compromise family savings, which in turn “put[s] pressure on city budgets” by increasing the
 5 likelihood that people turn to public benefits.⁴¹ Cities will simultaneously lose revenue from unpaid
 6 utility bills and other revenue streams.⁴² Temporary eviction moratoriums ensure local governments
 7 can direct limited resources toward the most vulnerable populations.

8 Confronted with this potential economic devastation, the City Council’s decision to impose
 9 an eviction moratorium is a reasonable and appropriately tailored regulation to ensure the economic
 10 stability and health and safety of the public. Numerous studies have found that evictions cause
 11 severe and negative health and safety impacts on affected households and their communities, with
 12 particularly pernicious effects on low-income communities and communities of color.⁴³ Evictions
 13 increase the likelihood of contact with the criminal justice system,⁴⁴ employment instability,⁴⁵

13 ⁴⁰ See Baumgart Dec., ¶ 7, 18 (“[M]ore than six times as many people [are] claiming unemployment benefits in Washington than there were a year ago,” reflecting job loss or curtailed employment hours).

14 ⁴¹ See, e.g., Signe-Mary McKernan, et al, *Thriving Residents, Thriving Cities: Family Financial Security Matters for Cities*, Urban Inst. (Apr. 21, 2016), <https://www.urban.org/research/publication/thriving-residents-thriving-cities-family-financial-security-matters-cities>; see also Rachel Garg et al., *Rent Requests Higher in States with Few Protections for Renters*, Wash. U. in St. Louis (documenting that requests for rental assistance have increased 92% in states with lower tenant protections and 68% in states with stronger protections since the pandemic began).

16 ⁴² Signe-Mary McKernan, *supra* note 41; For example, in 2019, the City of Chicago lost between \$68 million and \$157 million on evictions, unpaid property taxes, and unpaid utility bills. Diana Elliot and Cassandra Martincheck, *Chicago: The Cost of Eviction and Unpaid Bills of Financially Insecure Families for City Budgets*, Urban Inst. (Nov. 2019), <https://www.urban.org/sites/default/files/publication/101301/cost-eviction-chicago.pdf>.

18 ⁴³ See Timothy A. Thomas et al., *The State of Evictions: Results from the University of Washington Evictions Project* (Feb. 17, 2019) (documenting racial disparities in evictions in King, Pierce, and Whatcom counties), <https://evictions.study/washington/results.html>.

19 ⁴⁴ Aaron Gottlieb & Jessica W. Moose, *The Effect of Eviction on Maternal Criminal Justice Involvement*, 4 Socius: Socio. Res. Dynamic World 6-10 (2018).

20 ⁴⁵ Matthew Desmond & Carl Gershenson, *supra* note 39, at 54–61.

1 maternal hardship and depression,⁴⁶ relocation to higher-poverty and higher-crime neighborhoods,⁴⁷
 2 drug use,⁴⁸ and poor health, particularly for children exposed to toxins, stress, and other dangerous
 3 conditions resulting from homelessness or substandard, overcrowded housing.⁴⁹

* * * *

4 Given the extensive public health and economic welfare impacts of a potential wave of mass
 5 evictions, and given the centrality of housing stability to the City's public health response to
 6 COVID-19, the City of Seattle's decision to temporarily halt nonpayment evictions was not only
 7 reasonable, but it was also the correct choice. An eviction moratorium is an effective means to
 8 promote public health and economic welfare during the ongoing global pandemic both because
 9 keeping people inside and housed curbs the spread of the virus, and because ensuring housing
 10 stability contributes to job retention and strengthens local economies. Accordingly, the eviction
 11 moratorium is reasonably tailored in duration and reach to support this crucial public purpose.

CONCLUSION

12 For all the foregoing reasons, and for the reasons provided in opposition by Defendants the
 13 City of Seattle, Governor Jay R. Inslee and Mayor Jenny A. Durkan, *Amici* Cities and Counties
 14 respectfully request that the motion for preliminary injunction be denied.

17 ⁴⁶ Matthew Desmond & Rachel T. Kimbro, *Eviction's Fallout: Housing, Hardship, and Health*, 94 Soc. Forces 310-19 (2015).

18 ⁴⁷ Matthew Desmond & Tracey Shollenberger, *Forced Displacement from Rental Housing: Prevalence and Neighborhood Consequences*, 52 Demography 1760-69 (2015).

19 ⁴⁸ See, e.g., William Damon et. al., *Residential Eviction Predicts Initiation of or Relapse into Crystal Methamphetamine Use Among People Who Inject Drugs*, 41 J. Pub. Health 38-43 (2018); see also Ashley C. Bradford & W. David Bradford, *The Effect of Evictions on Accidental Drug and Alcohol Mortality*, 55 Health Serv. Res. 15-16 (2020).

20 ⁴⁹ Allyson E. Gold, *No Home for Justice: How Eviction Perpetuates Health Inequity Among Low-Income and Minority Tenants*, 24 Geo. J. Poverty L. & Pol'y 70-73 (2016).

Respectfully submitted,

/s/ Darin Sands

Darin Sands (WSBA # 35865)
Erin Bernstein, *pro hac vice pending*
BRADLEY BERNSTEIN SANDS, LLP
113 Cherry Street
PMB 62056
Seattle, WA 98104
dsands@bradleybernsteinllp.com
Tel: 503-734-2480

Jonathan B. Miller
LiJia Gong
Sophia TonNu
PUBLIC RIGHTS PROJECT
4096 Piedmont Avenue #149
Oakland, CA 94611

Counsel for Amici Cities and Counties

Stephen J. Kane
Rebecca Hirsch
Affirmative Litigation Division
CITY OF CHICAGO DEPARTMENT OF LAW
121 North LaSalle Street, Room 600
Chicago, Illinois 60602

Counsel for the City of Chicago

Dated: October 22, 2020

LIST OF ADDITIONAL COUNSEL

EUGENE L. O'FLAHERTY
Corporation Counsel
City Hall, Room 615
Boston MA, 02201
*Attorney for the City of
Boston, Massachusetts*

MICHAEL N. FEUER
City Attorney
200 North Main Street,
8th Floor
Los Angeles, CA 90012
*Attorney for the City of
Los Angeles, California*

NANCY E. GLOWA
City Solicitor
City of Cambridge
795 Massachusetts Avenue
Cambridge, MA 02139
*Attorney for the City of
Cambridge, Massachusetts*

BARBARA J. PARKER
City Attorney
One Frank Ogawa Plaza,
Sixth Floor
Oakland, CA 94612
*Attorney for the City of
Oakland, California*

JESSICA M. SCHELLER
Chief; Advice, Business &
Complex Litigation Division
Cook County State's Attorney's Office
500 Richard J. Daley Center
Chicago, IL 60602
Attorney for Cook County, Illinois

MARK BARBER
City Attorney
City of Olympia
P.O. Box 1967
Olympia, WA 98507-1967
*Attorney for the City of
Olympia, Washington*

BARBARA J. DOSECK
City Attorney
101 W. Third Street
P.O. Box 22
Dayton, OH 45401
*Attorney for the City of
Dayton, Ohio*

TRACY REEVE
City Attorney
1221 SW Fourth Avenue
Room 430
Portland, OR 97204
*Attorney for the City of
Portland, Oregon*

RODNEY POL, JR.
City Attorney
401 Broadway, Suite 101
Gary, IN 46402
*Attorney for the City of
Gary, Indiana*

LYNDSEY M. OLSON
City Attorney
400 City Hall and Courthouse
15 West Kellogg Boulevard
Saint Paul, MN 55102
*Attorney for the City of
Saint Paul, Minnesota*

1 JAMES R. WILLIAMS
County Counsel
2 70 W. Hedding Street,
East Wing, 9th Floor
3 San Jose, CA 95110
*Attorney for the County of
Santa Clara, California*

4 ANTHONY P. CONDOTTI
City Attorney
5 Atchinson, Barisone & Condotti
P.O. Box 481
6 Santa Cruz, CA 95061
*Attorney for the City of
Santa Cruz, California*

8 GEORGE S. CARDONA
Interim City Attorney
1685 Main Street, Third Floor
9 Santa Monica, CA 90401
*Counsel for the City of
Santa Monica, California*

FRANCIS X. WRIGHT, JR.
City Solicitor
93 Highland Avenue
Somerville, MA 02143
*Attorney for the City of
Somerville, Massachusetts*

MICHAEL RANKIN
City Attorney
P.O. Box 27210
Tucson, AZ 85726
*Attorney for the City of
Tucson, Arizona*

MICHAEL JENKINS
City Attorney
Best Best & Krieger, LLP
1230 Rosecrans Avenue, Ste 110
Manhattan Beach, CA 90266
*Attorney for the City of
West Hollywood, California*

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